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| 10/788,814 | 02/27/2004 | Scott R. Schaper | ACUT-1-1002 | 7852 |
| 25315 7590 06/15/2007 BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104 | | | EXAMINER SHECHTMAN, SEAN P | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/788,814 | Applicant(s) SCHAPER ET AL. | |
| | Examiner Sean P. Shechtman | Art Unit 2125 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 71-90 are presented for examination. Claims 1-70 have been cancelled.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 4th 2007 has been entered.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 2, elements 50, 80, 86, 88; Fig. 3, elements 114, 116, 118, 120, 122; Fig. 5, element 204; Fig. 6, element 244; Fig. 9, element 286. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 73-77, 83-85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 73, 74, 75, 76, 77 recites the limitation "the selected one" in line 1. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, it will be assumed that the selected one is a selected one or the at least one.

Referring to claim 75, line 2 recites the limitation "the undesirable condition", however claim 75 depends on claim 71 and claim 71 recites the limitations of "an undesirable condition" in line 9 and "an undesirable condition" in line 12. Therefore the recitation of "the undesirable condition" in the same or subsequent claim is unclear because it is uncertain which of the undesirable conditions was intended (MPEP 2173.05(e)). For purposes of examination, it will be assumed that the undesirable condition is the "undesirable condition" in line 9 or the

“undesirable condition” in line 12. Claims 76-77, 83-85 recite the same limitations and therefore are indefinite for the same reasons and the same assumptions will be made.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 71, 73-77 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,827,429 to Silvestri, Jr. (hereinafter referred to as Silvestri).

Referring to claim 71, 73-77, Silvestri teaches, comprising:

a processor (Fig. 1, element 60);

a first input configured to receive signals from a generator (Col. 1, lines 7-10; Fig. 1, elements 35, 52, 54);

an output configured to send signals to the generator (Fig. 1, output from computer other than element 64);

a second input configured to receive signals from a plurality of operating condition sources (Fig. 1, elements 36, 53, 55);

a memory accessible by the processor, the memory containing stored programming instructions operable by the processor (Col. 8, lines 6-12);

the stored programming further enabling the processor to decode electronic indicators produced by the generator (Col. 2, lines 61-65; Fig. 2, Col. 3, lines 18-2); and

a display configured to present text messages related to the electronic indicators (Col. 6, lines 43-46).

Since the control, inhibiting, and switching actions of the processor are based on the condition that a signal representative of an undesirable condition is received, and Silvestri does not teach that a signal representative of an undesirable condition is received, the examiner respectfully submits that Silvestri anticipates the claim invention. Although Silvestri teaches the value of Timp as a digital signal maybe used to minimize an undesirable condition, the signal itself is not representative of an undesirable condition (Col. 6, lines 46-49). Similar explanation holds true for claims 73-77, i.e., no signal representative of an undesirable condition is received from the at least one operating condition sources comprising a gas detector, parking brake, ignition, building presence detector, and alternating current source.

7. Claims 79, 87 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,204,814 to Noonan et al (hereinafter referred to as Noonan).

Referring to claims 79, 87, Noonan teaches the following:

a processor (Fig. 4, element 12);

an input capable of receiving signals from a generator (Fig. 4, element 16, Col. 7, lines 16-18; Fig. 4, element 13; Col. 7, lines 3-16);

an output capable of sending signals to the generator (Fig. 4, element 13; Col. 7, lines 3-16);

an input capable of receiving signals from an operating condition source (Fig. 4, element 22; Col. 7, lines 31-44); and

a second input operable by a user to enable the user to select one of a plurality of controller modes of operation (Col. 8, lines 36-41; Col. 9, lines 6-7); a control component

controlling the operation of the generator controller in accordance with the selected one of the plurality of controller modes of operation (Col. 9, lines 6-44),

a memory accessible by the processor (Col. 7, lines 3-8), the memory containing stored programming instructions operable by the processor, in accordance with the selected one of the plurality of controller modes of operation, to control the operation of a generator and to inhibit operation of the generator if a signal representative of an undesirable condition is received from the operating condition source (Col. 7, lines 31-44, spark enable relay; Col. 3, lines 30-35);

the control component in communication with the output and the input (Fig. 4, element 12, Col. 7, lines 3-11), the control component having a manual mode and an automatic mode (Col. 7, line 54 – Col. 8, line 35) and being configured to switch to the manual mode when a signal representative of an undesirable condition is received from at least one of a second subset of the plurality of operating condition sources, whereby in the manual mode the generator is operable under manual control (Col. 3, lines 30-58). The examiner respectfully submits a person dispatched to remedy a problem which causes the vehicle to stop is a generator operable under control requiring human effort, and therefore is a generator is operable under manual control.

8. Claims 79, 85, 87, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,788,487 to Picklesimer (hereinafter referred to as Picklesimer), supplied by applicant.

Referring to claim 79, 87, Picklesimer teaches a generator controller (Col. 4, line 64 – Col. 5, line 20), comprising:

an output configured to send signals to a generator (Col. 5, lines 56-67); an input configured to receive signals from a plurality of operating condition sources (Col. 5, lines 51-55,

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switch 42; Col. 6, lines 5-10, open contact 80; Col. 6, lines 36-50; Col. 12, lines 44-45); and an input operable by a user to enable the user to select one of a plurality of controller modes of operation (Col. 5, lines 51-55); and

a control component controlling the operation of the generator controller in accordance with the selected one of the plurality of controller modes of operation (Col. 4, line 64 – Col. 5, line 20; Col. 5, lines 45-55; Col. 7, lines 45-55); a control component in communication with the output and the input, the control component having a manual mode and an automatic mode (Col. 4, line 64 – Col. 5, line 20; Col. 5, lines 45-55; Col. 7, lines 45-55) and being configured to automatically inhibit operation of the generator if a signal representative of an undesirable condition is received from at least one of a first subset of the plurality of operating condition sources (Col. 5, lines 51-55, switch 42; Col. 6, lines 5-10, relay 40; Col. 6, lines 36-50; Col. 12, lines 44-45), the control component further being configured to switch to the manual mode when a signal representative of an undesirable condition is received from at least one of a second subset of the plurality of operating condition sources (Col. 6, lines 5-11), whereby in the manual mode the generator is operable under manual control (Col. 4, line 64 – Col. 5, line 20; Col. 5, lines 45-55; Col. 7, lines 45-55).

85. The generator controller of claim 79, wherein the first subset of operating condition sources comprises an external alternating current source, and wherein the undesirable condition comprises the presence of power available at the external alternating current source (Col. 10, lines 15-23).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of U.S. Pat. No. 6,172,428 to Jordan (hereinafter referred to as Jordan). Claims 80, 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan as applied to claims 79, 87 above, and further in view of Jordan.

Referring to claim 71, Noonan teaches the following:

a processor (Fig. 4, element 12); an input capable of receiving signals from a generator (Fig. 4, element 16, Col. 7, lines 16-18; Fig. 4, element 13; Col. 7, lines 3-16); an output capable of sending signals to the generator (Fig. 4, element 13; Col. 7, lines 3-16); an input capable of receiving signals from an operating condition source (Fig. 4, element 22; Col. 7, lines 31-44); and a second input operable by a user to enable the user to select one of a plurality of controller modes of operation (Col. 8, lines 36-41; Col. 9, lines 6-7); a control component controlling the operation of the generator controller in accordance with the selected one of the plurality of controller modes of operation (Col. 9, lines 6-44),

a memory accessible by the processor (Col. 7, lines 3-8), the memory containing stored programming instructions operable by the processor, in accordance with the selected one of the plurality of controller modes of operation, to control the operation of a generator and to inhibit operation of the generator if a signal representative of an undesirable condition is received from the operating condition source (Col. 7, lines 31-44, spark enable relay; Col. 3, lines 30-35);

the control component in communication with the output and the input (Fig. 4, element 12, Col. 7, lines 3-11), the control component having a manual mode and an automatic mode

(Col. 7, line 54 – Col. 8, line 35) and being configured to switch to the manual mode when a signal representative of an undesirable condition is received from at least one of a second subset of the plurality of operating condition sources, whereby in the manual mode the generator is operable under manual control (Col. 3, lines 30-58). The examiner respectfully submits a person dispatched to remedy a problem which causes the vehicle to stop is a generator operable under control requiring human effort, and therefore is a generator is operable under manual control.

Referring to claims 71, 80, 88, Noonan teaches all of the limitations set forth above, and further teaches signaling the potential problem to a remote radio receiver (Col. 3, lines 55-58), however, Noonan fails to teach the stored programming further enabling the processor to decode electronic indicators produced by the generator; and a display configured to present text messages related to the electronic indicators.

However, referring to claim 71, Jordan teaches a generator (Col. 1, lines 27-35; Col. 10, lines 52-65), a processor (Col. 9, lines 24-45), and a memory accessible by the processor (Col. 9, lines 24-45), wherein the memory contains stored programming instructions operable by the processor to enable the processor to decode electronic indicators produced by the generator (Col. 4, lines 11 – 28; Col. 8, line 52 – Col. 10, line 51; Col. 12, lines 57-60, Fig. 4, elements 422, 424, converts from digital signals into plain text); and a display configured to present text messages related to the electronic indicators (Fig. 4, elements 422, 424).

Noonan and Jordan are analogous art because they are from the same field of endeavor, monitoring and control of generators. At time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Noonan to include the display feature of Jordan.

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One of ordinary skill in the art would have been motivated to combine these references because Jordan teaches it is more desirable to have a textual message as opposed to only displaying a graphical icon for a warning because the textual message offers much more information than a cryptic icon. With the graphical icon, an operator must either know what the icon symbolizes or look it up in a user manual, which may cause lengthy unnecessary delays during the time that the gen-set requires immediate action by the operator. Thus, a graphical icon is vague and does not provide a clear description of the fault condition as does a textual message (Col. 18, lines 37-53). Furthermore, Jordan teaches that by providing the operator with some suggestion or recommendation about how to address a reported fault condition and providing the operator with a specific reference to the technical manual regarding the reported fault condition, the DCS software increases the likelihood that an operator will resolve a reported fault condition quickly and efficiently (Col. 19, lines 7-14).

10. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of Jordan as applied to claim 71 above, and further in view of Noonan. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan as applied to claim 79 above, and further in view of Noonan.

Referring to claims 76, 84, Noonan teaches wherein the operating condition source comprises an obstruction or people presence detector and wherein the undesirable condition comprises the presence of an obstruction or people adjacent to a vehicle to which the generator is connected (Col. 7, lines 31-44, spark enable relay; Col. 3, lines 30-35).

Referring to claims 76, 84, Noonan or Noonan/Jordan teaches all of the limitation set forth above however fails to teach the presence detector detects a building.

However, Noonan teaches an autonomous lawn mower that is deigned to operate unattended, wherein the lawn mowers navigation system is designed to sense obstacles and to shut-down the vehicle if objects are sensed (Col. 3, lines 30-35).

At time of the invention, it would have been obvious to a person of ordinary skill in the art to place the lawn mower of Noonan on a lawn within the vicinity of a house or building structure, since lawns, that are intended to be mowed, are normally within the vicinity of a house or building structure; and thereafter detect a building with the obstruction or people presence detector.

One of ordinary skill in the art would have been motivated to place the lawn mower of Noonan on a lawn and thereafter detect a building with the obstruction or people presence detector, to prevent damage to both the lawn mower and building, in the event that the lawn mower bumped into the building. Furthermore, shutting the lawn mower down after detecting building presence would save power and be energy efficient.

11. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of Jordan as applied to claim 71 above, and further in view of Picklesimer.

Referring to claim 72, Noonan in view of Jordan teaches all of the limitation set forth above, however fails to teach a stop input in communication with the processor, whereby in response to a selection of the stop input by a user the controller allows the operation of the

generator even if a signal representative of an undesirable condition is received from at least a selected one of the plurality of operating condition sources.

However, referring to claim 72, Picklesimer teaches a generator controller (Col. 4, line 64 – Col. 5, line 20), comprising: an output configured to send signals to a generator (Col. 5, lines 56-67); an input configured to receive signals from a plurality of operating condition sources (Col. 5, lines 51-55, switch 42; Col. 6, lines 5-10, open contact 80; Col. 6, lines 36-50; Col. 12, lines 44-45); and an input operable by a user to enable the user to select one of a plurality of controller modes of operation (Col. 5, lines 51-55); and a control component controlling the operation of the generator controller in accordance with the selected one of the plurality of controller modes of operation (Col. 4, line 64 – Col. 5, line 20; Col. 5, lines 45-55; Col. 7, lines 45-55); a control component in communication with the output and the input, the control component having a manual mode and an automatic mode (Col. 4, line 64 – Col. 5, line 20; Col. 5, lines 45-55; Col. 7, lines 45-55) and being configured to automatically inhibit operation of the generator if a signal representative of an undesirable condition is received from at least one of a first subset of the plurality of operating condition sources (Col. 5, lines 51-55, switch 42; Col. 6, lines 5-10, relay 40; Col. 6, lines 36-50; Col. 12, lines 44-45), the control component further being configured to switch to the manual mode when a signal representative of an undesirable condition is received from at least one of a second subset of the plurality of operating condition sources (Col. 6, lines 5-11), whereby in the manual mode the generator is operable under manual control (Col. 4, line 64 – Col. 5, line 20; Col. 5, lines 45-55; Col. 7, lines 45-55);

comprising a stop input in communication with the control component, whereby in response to a selection of the stop input by a user the controller allows the operation of the

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generator even if a signal representative of an undesirable condition is received from at least a selected one of the plurality of operating condition sources (Col. 6, lines 5-11 or Col. 7, lines 45-55).

Noonan in view of Jordan and Picklesimer are analogous art because they are from the same field of endeavor, monitoring and control of generators. At time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Noonan in view of Jordan to include the stop input of Picklesimer. One of ordinary skill in the art would have been motivated to combine these references because Picklesimer teaches control devices that enable vehicles to use simultaneously a plurality of A/C units while hooked into an outside (dockside) power supply. Furthermore, Picklesimer teaches control devices that provide standby protection for the vehicle should there be a power failure or interruption when it is parked and plugged into an external 120 VAC power source to prevent the inside of the vehicle from overheating through sun exposure (Col. 2, lines 25-42).

12. Claim 73 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of Jordan as applied to claim 71 above, and further in view of U.S. Pat. No. 5,712,052 to Kawatsu (hereinafter referred to as Kawatsu). Claims 81, 89 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan or Picklesimer as applied to claim 79, 87 above, and further in view of Kawatsu.

Referring to claims 73, 81, 89, Noonan or Picklesimer or Noonan/Jordan teaches all of the limitation set forth above, however fails to teach the operating condition source comprises a gas detector.

However, Kawatsu teaches the following: a processor (Fig. 1, element 232, Col. 11, lines 54-67); an input capable of receiving signals from a generator (Fig. 11, element 620 and 238; Col. 17, line 55 – Col. 18, line 7); an output capable of sending signals to the generator (Col. 11, lines 63-67; Fig. 1, element 238); an input capable of receiving signals from an operating condition source (Fig. 1, element 238; Col. 11, lines 54-67); and a memory accessible by the processor (Fig. 1, elements 234 and 236; Col. 11, lines 54-67), the memory containing stored programming instructions operable by the processor to control the operation of a generator and to inhibit operation of the generator if a signal representative of an undesirable condition is received from the operating condition source (Col. 12, lines 4-9; Col. 15, lines 60 – Col. 16, line 10); wherein the operating condition source comprises a gas detector (Fig. 1, element 1).

Kawastu and Noonan or Picklesimer or Noonan/Jordan are analogous art because they are from the same field of endeavor, monitoring and control of generators. At time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Noonan or Picklesimer or Noonan/Jordan with the gas detector of Kawastu. One of ordinary skill in the art would have been motivated to combine these references because Kawastu teaches a fuel cell wherein carbon monoxide is not affected by the presence of hydrogen, such that the carbon monoxide measurement means can accordingly measure, with high precision, the concentration of carbon monoxide included in a hydrogen-rich gas containing an extremely large amount of hydrogen and only a trace amount of carbon monoxide, such as a gaseous fuel fed to the fuel cell, thereby controlling the reformer to decrease the concentration of carbon monoxide without delay, thus effectively canceling the catalyst poisoning (Col. 7, lines 33-43).

13. Claim 74, 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of Jordan as applied to claim 71 above, and further in view of U.S. Pat. No. 6,724,100 to Gabriel (hereinafter referred to as Gabriel). Claim 82, 86, 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan or Picklesimer as applied to claim 79, 87 above, and further in view of Gabriel.

Referring to claims 74, 78, 82, 86, 90, Noonan or Picklesimer or Noonan/Jordan teaches all of the limitation set forth above, however fails to teach the operating condition source comprises a parking brake; wherein the plurality of operating condition sources comprises a transmission neutral switch, and an ignition switch.

However, Gabriel discloses an input capable of receiving signals from an operating condition source (Col. 4, lines 22-26); and controlling the operation of a generator and to inhibit operation of the generator if a signal representative of an undesirable condition is received from the operating condition source (Col. 7, line 40 – Col. 8, line 2; Col. 8, lines 11-13); wherein the operating condition source comprises a parking brake (Col. 7, line 40 – Col. 8, line 2; Col. 8, lines 11-13); wherein the plurality of operating condition sources comprises a transmission neutral switch (Col. 6, lines 64-66), and an ignition switch (Col. 4, lines 30-38).

Noonan or Picklesimer or Noonan/Jordan and Gabriel are analogous art because they are from the same field of endeavor, operation and control for generators. At time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Noonan or Picklesimer or Noonan/Jordan to include the operation inhibiting feature of Gabriel.

One of ordinary skill in the art would have been motivated to modify Noonan or Picklesimer or Noonan/Jordan because Gabriel teaches a system and method for charging an

HEV battery and utilizing the HEV as a generator efficiently and easily (Col. 2, lines 15-20). Furthermore, Gabriel clearly teaches that providing the operation inhibiting feature based on a parking brake condition (Col. 8, lines 10-13) increases safety (Col. 4, lines 20-26).

14. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of Jordan as applied to claim 71 above, and further in view of International Publication WO01/95417 to Hirakata (whole document) in view of Jordan. In order to expedite prosecution, the examiner will make reference to the corresponding U.S. Pat. No. 6,964,821 to Hirakata (hereinafter referred to as Hirakata). Claim 83 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan or Picklesimer as applied to claim 79 above, and further in view of Hirakata.

Referring to claims 75, 83, Noonan or Picklesimer or Noonan/Jordan teaches all of the limitations set forth above, however fails to teach the selected one of the operating condition sources comprises a vehicle ignition and wherein the undesirable condition comprises the ignition being switched to an on position.

However, Hirakata teaches the following: a processor (Fig. 1, element 52); an input capable of receiving signals from a generator (Fig. 1, element 58; Col. 11, lines 21-27); an output capable of sending signals to the generator (Fig. 1, element 58; Col. 11, lines 21-27); an input capable of receiving signals from an operating condition source (Col. 16, lines 24-26; Col. 15, lines 6-24); and a memory accessible by the processor, the memory containing stored programming instructions operable by the processor to control the operation of a generator and to inhibit operation of the generator if a signal representative of an undesirable condition is received

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from the operating condition source (Col. 16, lines 24-26; Col. 15, lines 6-24); wherein the operating condition source comprises a vehicle ignition and wherein the undesirable condition comprises the ignition being switched to an on position (Col. 16, lines 24-26; Col. 15, lines 6-24).

Hirakata and Noonan or Picklesimer or Noonan/Jordan are analogous art because they are from the same field of endeavor, monitoring and control of generators. At time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Noonan or Picklesimer or Noonan/Jordan with the inhibiting feature of Hirakata.

One of ordinary skill in the art would have been motivated to combine these references because Hirakata teaches a connector receptor is provided with a fuel lid for covering over the connector receptor, such that when it is determined that the fuel cells are in a working state, the fuel lid is not opened in response to input of an opening instruction of the fuel lid in the course of fuel supply, and when it is determined that the fuel lid is open, on the other hand, operation of the fuel cells is not started in response to input of a starting instruction of the fuel cells in the electric vehicle, thereby enhancing the safety of fuel supply to any system with fuel cells (Abstract).

15. Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan in view of Jordan as applied to claim 71 above, and further in view of U.S. Pat. No. 6,208,040 to Mardirossian (hereinafter referred to as Mardirossian). Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noonan as applied to claim 79 above, and further in view of Mardirossian.

Referring to claim 77, 85, Noonan or Noonan/Jordan teaches all of the limitations set forth above, however fails to teach the operating condition source comprises an external alternating current source, and wherein the undesirable condition comprises the presence of power available at the external alternating current source.

Mardirossian teaches an input capable of receiving signals from an operating condition source (Fig. 5, element 14; Col. 4, lines 1-17); and a control circuit to control the operation of a generator and to inhibit operation of the generator if a signal representative of an undesirable condition is received from the operating condition source (Col. 4, lines 13-17); wherein the operating condition source comprises an external alternating current source (Col. 3, lines 44-45), and wherein the undesirable condition comprises the presence of power available at the external alternating current source (Col. 4, lines 13-17).

Noonan or Noonan/Jordan and Mardirossian are analogous art because they are from the same field of endeavor, operation and control for generators.

At time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Noonan or Noonan/Jordan with the load management technique of Mardirossian.

One of ordinary skill in the art would have been motivated to modify Noonan or Noonan/Jordan because Mardirossian teaches that due to the utilization of the power from the fuel cell whenever the predetermined utility power level being received has reached a predetermined level, the utility load profile paid for by the customer may remain substantially flat and thereby allowing the customer to avoid payment of costly peak demand charges (Col. 4, lines 46-54).

Response to Arguments

Art Unit: 2125

16. Applicant's arguments with respect to claim 71-90 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean P. Shechtman whose telephone number is (571) 272-3754. The examiner can normally be reached on 9:30am-6:00pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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SPS

Sean P. Shechtman 

June 9, 2007

6/9/07